



Mr. Eric M. Holloway
Office of Technology and Electronic Commerce
U.S. Department of Commerce
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Room 2806
Washington, DC 20230

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<http://www.cdt.org>

Re: Response to a request for comments on the development and implementation
of cross-border privacy rules in the Asia Pacific Cooperation Group

Dear Mr. Holloway;

The Center for Democracy and Technology appreciates the opportunity to submit comments in response to the May 22, 2006 Department of Commerce International Trade Administration's request for comments on the development and implementation of cross border privacy rules ("CBPRs") in the Asia Pacific Economic Cooperation ("APEC") region.

The Center for Democracy and Technology is a 501c (3) non-profit public policy organization dedicated to promoting democratic values and constitutional liberties in the digital age. With expertise in law, technology, and policy, CDT seeks practical solutions to enhance privacy in global communications technologies. CDT is dedicated to building consensus among all parties interested in the future of these technology-related issues. CDT believes that maintaining privacy requires the development of public policies and technology tools that give people the ability to take control of their personal information online and make informed, meaningful choices about the collection, use and disclosure of personal information.

CDT believes that the APEC Privacy Framework will have a significant impact on US policy related to cross border data flows and privacy practices. As such, it is critical as work on the development of Cross Border Privacy Rules (CBPRs) to implement the Framework that the public interest be represented.

CBPRs will involve establishment of rules to enable global organizations that collect, access, use or process data in APEC member economies to develop and implement uniform approaches within their organization for global access to and use of personal information. CBPRs will also involve development of mechanisms to foster cooperation

among various regulatory bodies to resolve cross-border disputes related to CBPRs. Proper structuring of these rules will require input from the public interest community to

- assure that, from the perspective of the public interest, the information sharing mechanisms necessary to facilitate cross-border information flows and dispute resolution are designed in a manner in keeping with the Framework and that fosters the core values of the Organization for Economic Cooperation and Development's 1980 Guidelines on the Protection of Privacy and Trans-Border Flows of Personal Data;
- represent the public's concern that information sharing mechanisms to foster cooperation across regulatory borders to resolve cross-border disputes related to CBPRs do not raise new challenges to privacy;
- enhance as much as possible the effectiveness, timeliness, and responsiveness of the dispute resolution process, by bringing to the discussion the needs and perspective of the US consumer; and
- assure that policies related to law enforcement access to information flowing between APEC countries receive close scrutiny and, as appropriate, be subject to open discussion between all interested stakeholders.

CDT urges that as work on the CBPRs goes forward, the Department of Commerce make every effort to promote the representation and participation of the public interest in their development. CDT remains available to answer any questions, and is available to the Department of Commerce as work on this effort goes forward.

Yours sincerely,

Paula J. Bruening
Staff Counsel